

**IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF OKLAHOMA**

DARYL F. FIELDS,	)	
	)	
Petitioner,	)	
vs.	)	NO. CIV-06-1265-HE
	)	
STATE OF OKLAHOMA,	)	
	)	
Respondent.	)	

**ORDER**


Petitioner Daryl Fields, a *pro se* state prisoner, instituted this action pursuant to 28 U.S.C. § 2254, challenging his conviction for possession of drug paraphernalia, pursuant to a guilty plea, in the District Court of Carter County, State of Oklahoma. Pursuant to 28 U.S.C. § 636(b)(1)(B), this matter was referred to Magistrate Judge Gary M. Purcell, who recommended that the petition for writ of habeas corpus be dismissed with prejudice for lack of jurisdiction because the challenged conviction only resulted in a fine, with no present or future custodial sentence imposed.

Petitioner has not objected to the Report and Recommendation and, therefore, has waived his right to appellate review of the factual and legal issues it addressed. United States v. One Parcel of Real Property, 73 F.3d 1057, 1059-60 (10th Cir. 1996). *See* 28 U.S.C. § 636(b)(1); LCvR 72.1(a). The court has also considered the merits of the action and substantially concurs with the Magistrate Judge's analysis.

Accordingly, the court **ADOPTS** the Report and Recommendation and **DISMISSES** with prejudice to refiling the petition for writ of habeas corpus.

**IT IS SO ORDERED.**

Dated this 15<sup>th</sup> day of February, 2007.



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JOE HEATON  
UNITED STATES DISTRICT JUDGE